

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/982,337 Confirmation No. 6724
Appellants : Todd Ouzts, et al.
Filed : 10/18/2001
Group Art Unit : 2173
Examiner : Dennis G. Bonshock
Title : METHOD FOR GRAPHICAL REPRESENTATION OF A CONTENT
COLLECTION
Atty. Docket No. : 148466.01/MFCP.88143
Customer No. : 45809

VIA EFS – 10 July 2009

APPELLANTS' REPLY BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is a Reply Brief in response to an Examiner's Answer mailed 12 May 2009. These claims have been at least twice rejected. Appellants do hereby submit this Reply Brief under 37 C.F.R. § 41.41(b)(2) (2007). The Commissioner is hereby authorized to charge any additional fee that may be due, or credit any overpayment, to Deposit Account No. 19-2112.

Contents

I.	Status of Claims	3
II.	Grounds of Rejection to be Reviewed on Appeal.....	4
III.	Argument	5
A)	The Office must give the words of the claim their plain meaning.....	5
	(i) Baecker, Scott, and Gill do not describe or suggest, among other things, the background appearance of a container or graphical previews of the sorted content items are displayed on the background appearance as required by claims 9-12, 15-16 and 18-20.	6
	(ii) Baecker, Scott, Gill, and Hatanaka fail to describe or suggest, among other things, the outer appearance of a container or a thumbnail extractor to generate graphical previews for the sorted content items and displaying the graphical previews of the sorted content items as required by claims 1, 5-7, 16-17 and 20.	9

I. STATUS OF CLAIMS

Claims 1, 5-7, 9-12, and 15-20 are rejected, and the rejection of each of those claims is being appealed. Claims 2-4, 8, and 13-14 are canceled.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

A) Whether claims 9-12, 15, and 18-19 are unpatentable under 35 U.S.C. § 103(a) as being unpatentable over Baecker *et al.* (US Patent No. 5,586,237), Scott *et al.* (US Patent No. 6,545,687), and Gill (US Patent No. 6,947,959).

B) Whether claims 1, 5-7, 16-17, and 20 are unpatentable under 35 U.S.C. § 103(a) as being unpatentable over Baecker *et al.* (US Patent No. 5,586,237), Scott *et al.* (US Patent No. 6,545,687), Gill (US Patent No. 6,947,959), and Hatanaka *et al.* (US Patent No. 5,680,558).

III. ARGUMENT

The Office has included several additional explanations in the 12 May 2009 Examiner's Answer to shore up the original grounds of the obviousness rejections based on Baecker, Scott, Gill, and Hatanaka maintained in the 16 January 2007 Final Office Action. In summary, the Office's additional arguments are: a broad and reasonable interpretation of a sorted subset of graphical previews on an outer appearance of a container is a background appearance of a container having graphical previews for all items in the container; Baecker suggests showing icons on an outer appearance; Gill suggests a query palette is a background appearance having sorted graphical previews; Gill teaches a sort criteria is specified in a header file; Scott's containment areas suggest containers having an outer appearance for graphical previews; and Hatanaka suggests a thumbnail generator that creates thumbnails based on file extensions.

Appellants address each explanation in the remarks that follow. Appellants conclude that the prior art, including Baecker, Scott, Gill, and Hatanaka fails to render the invention of claims 1, 5-7, 9-12, and 15-20 unpatentable because the prior art fails to describe or suggest all elements of claims 1, 5-7, 9-12, and 15-20. Accordingly, Appellants are entitled to a patent because the invention meets all the statutory criteria for patentability.

A) **The Office must give the words of the claim their plain meaning.**

The terms "background appearance" and "outer appearance" are different and should be given separate interpretations. In the Examiner's Answer, at pp. 12-13, the Office appears to conflate these two terms. The Office commits error by conflating these terms because a person of skill in the art, at the time the invention was made, would not use a single interpretation for "outer appearance" and "background appearance." See, MPEP § 2111.01(III). Applicant

respectfully notes that the Office has used an unreasonable interpretation of the terms “background appearance” and “outer appearance” because the interpretation offered by the Office ignores the state of the art, the intrinsic evidence, and the words of the terms. Rather than the unreasonable interpretation offered by the Office, the following interpretations should be used for the terms “background appearance” and “outer appearance” because these interpretations are consistent with Applicant’s specification, the context of the claims, and the words of the terms. The term “outer appearance” refers to the external area of a folder, which is a container of the content items. The term “background appearance” refers to an area configured to resemble a closed folder icon and positioned behind a foreground that consists of sorted graphical preview images. These are broad reasonable interpretations of the terms “background appearance” and “outer appearance” that are consistent with the context of the claims and the intrinsic evidence.

As Baecker, Scott, Gill, and Hatanaka, individually or in combination, fail to describe or suggest the “background appearance” of claims 9-12, 15-16, and 18-20 or “outer appearance” of claims 1, 5-7, 9, and 17; Appellants respectfully request reversal of the obviousness rejections for the above reasons. Further, Appellants respectfully traverse the additional explanations as hereinafter set forth below.

(i) Baecker, Scott, and Gill do not describe or suggest, among other things, the background appearance of a container or graphical previews of the sorted content items are displayed on the background appearance as required by claims 9-12, 15-16 and 18-20.

It is respectfully submitted that claims 9-12 and 18 are allowable over the cited prior art, Baecker, Scott, and Gill, because Baecker, Scott, and Gill, individually and in combination, fail to describe or suggest, among other things, “sorting content items that can be graphically

represented based on a sort criteria to display graphical previews of the sorted content items on a background appearance for the collection of content items.”

The Office contends that Gill in combination with Baecker and Scott suggests sorting content items and displaying the content items on the background appearance of a container as required by claims 9-12 and 18. Moreover, at p. 15 of the Examiner’s Answer, the Office states “Gill teaches . . . selectively displaying the thumbnails based on a sort criteria specified in a header file . . .” Applicant respectfully disagrees. Gill describes a user query that can be executed on various fields of a header for digital assets and “Group by” functions for the query palette to organize all the results of the user query. The query palette is a results interface to show results to a user and to view all the results using varying sort functions. The query palette shows all items that are stored in a database that match the user query. Gill, at col. 6, ll. 30-50 and col. 7, ll. 29-60, describes the results as digital assets having header data that matches the terms of the user query. Unlike the query palette, the background appearance of claims 9-12 and 18 displays thumbnails for a sorted subset of items. Also, the background appearance is graphically linked to the container, i.e., folder, storing the subset of items and other items that are not included in the subset. The query palette is separate from the container storing the results. The query palette that displays the results fails to suggest a background appearance as required by claims 9-12 and 18. Unlike the query palette, the background appearance is tied to the container which includes and stores the subset of sorted items having graphical previews that are displayed on the background appearance; the other items in the container for which a graphical preview on the background appearance was not generated are not displayed on the background appearance. One of ordinary skill in the art at the time the invention was made would not turn to Gill in combination with Baecker and Scott to arrive at

the background appearance of claims 9-12 and 18 because the query palette is a user interface that requires user selection of sort functions that organize all items matching the user query, which fails to suggest quickly and efficiently generating graphical previews of sorted items in a folder without opening the folders.

Gill in combination with Baecker and Scott do not describe or suggest a sort criteria for the graphical previews. Rather, Gill suggests a query interface for a database and a results interface to show the results of the query. The results interface includes a “Group by” feature that allows the user to sort all the results that match the query in accordance with header fields. The Office, at pp. 16 and 19 of the Examiner’s Answer, appears to reason that the sort feature is a query. This interpretation of Gill is not consistent with Gill’s description of the query interface and the query palette. As described by Gill, the sort features are part of the results interface, which includes the “accessories” and the “query palette.” The results interface does not suggest, to one of ordinary skill in the art, the background interface for graphical previews sorted based on a sort criteria, where the graphical previews are for less than all of the content items of the container associated with container having the background appearance.

At pages 19-20 of the Examiner’s Answer, the Office contends that Scott, at Fig. 14-15 and col. 13, ll. 35-67, suggests a container having a collection of items and a background appearance that displays sorted graphical previews for less than all of the content items that are within the container. Applicant respectfully disagrees. Scott fails to show less than all of the content items in the container are sorted and graphically represented on a background appearance of the container as required by claims 9-12 and 15-16. Rather, Scott alters the aspect ratio of the images to zoom in on containment areas for the collections of images. Unlike claims 9-12 and 15-16, where the background appearance links to the container and

shows only a subset of graphical previews based on the sort criteria. This allows a quick assessment of the content of the folder and—unlike Gill—does not require a scroll control to view the other elements. Accordingly, one of ordinary skill in the art with the benefit of Gill, Baecker, and Scott would not link the sorted graphical previews and background appearance to the container as required by the invention.

Moreover, Gill and Scott present all items and introduces controls, i.e., scroll or zoom, to alter the currently displayed items. So, even if one of ordinary skill combined Gill, Baecker, Scott, and Hatanaka as suggested by the Office, the skilled artisan would not arrive at the invention of claims 9-12 and 15-16. Unlike the prior art, the invention of claims 9-12 and 15-16 generates graphical previews that are displayed on a background appearance of the container based on the sort criteria, where the background appearance of the container having all content items displays graphical previews for less than all of the content items.

(ii) Baecker, Scott, Gill, and Hatanaka fail to describe or suggest, among other things, the outer appearance of a container or a thumbnail extractor to generate graphical previews for the sorted content items and displaying the graphical previews of the sorted content items as required by claims 1, 5-7, 16-17 and 20.

It is respectfully submitted that independent claim 1 is allowable over the cited prior art because all limitations of claim 1 are not taught or suggested. With respect to independent claim 1, Baecker, Scott, Gill and Hatanaka, alone and in combination, fail to teach or suggest, among other things, (1) generating a list of items for which a graphical preview can be generated, wherein the graphical previews are not folders and the graphical previews are generated by a thumbnail extractor based on extensions associated with the items; and (2) selecting, from the generated list, a desired number of items to display on the outer appearance of a container based upon a sort criteria, wherein the sort criteria selects the items based upon those items which were most recently modified.

As discussed above, the Office commits error by conflating the interpretation of “background appearance” with “outer appearance.” Additionally, the Office commits error by arguing that one of ordinary skill in art would combine Hatanaka’s preview generation component with Baecker, Scott, and Gill to arrive at the invention of claims 1, 5-7, 16-17 and 20. Nothing in Hatanaka suggests using extensions to generate graphical previews that are sorted for display on an outer appearance of a container. Hatanaka, at col. 5, ll. 30-50, explicitly recites using header data to make a determination of the file type. Hatanaka, at col. 1, ll. 15-20 merely states that file extensions may designate file type. However, this does not suggest to one of ordinary skill in the art that a thumbnail extractor may use file extensions to generate graphical previews for sorted content items that are displayed on the outer appearance of a container having all items, including the sorted content items.

At pages 21-22 of the Examiner’s Answer, the Office appears to contend one of ordinary skill in the art would interpret outer appearance to be any color or pattern that is associated with a window. Applicant respectfully disagrees. As discussed above, the outer appearance of the container is an external appearance of a folder. The external appearance may include a graphical cover for a folder or container as illustrated in FIG. 3 of Applicant’s Figures. Gill’s query palette and query interface, individually or in combination with Baecker, Scott, and Hatanaka, does not suggest the outer appearance of the invention of claims 1, 5-7, 16-17 and 20.

Appellants respectfully submit that claims 1, 5-7, 9-12, and 15-20 are in condition for allowance. As such, Appellants respectfully request that the rejection of the claims be reversed and that a timely Notice of Allowance be issued in this case. Should there be any unresolved matters, please contact the undersigned.

Respectfully submitted,

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